

COMMODITIES TRADING TRANSPARENCY

2015

The UK Government should work for EU-wide trading payment transparency for oil, gas and minerals.

Championing transparency in the trading of oil, gas and minerals, by ensuring that the UK's and EU's reviews of implementation of the transparency requirements of the 2013 EU Accounting and Transparency Directives (reviews in 2017 and 2018 respectively) extend reporting requirements to payments to governments for the trading of oil, gas and minerals

Rationale:

The UK is one of the world's largest hubs for oil and other commodities trading, along with the USA and Switzerland, and is responsible for 25% of the global commodity trade in oil.¹ While the UK now requires payment transparency for large and publicly listed extractive companies for upstream activities, such companies' – and commodity trading companies' – midstream payments to governments (including to state-owned enterprises) for the purchase of oil, gas and minerals remain one of the most profitable yet opaque areas of the natural resources sector.² Major EU-registered and/or -listed companies that engage in commodity trading include not only recognised traders such as Glencore but also "major oil companies' commodity trading arms, such as BP ... Shell ... and Total".³

Commodity trading contributes substantially to state revenues. From 2011 to 2013, the total value of sales by the national oil companies of sub-Saharan Africa's 10 leading oil producers equalled 56% of combined government revenues (more than 10 times international aid to these countries).⁴ Countries where the "resource curse" is strong such as Angola, Congo-Brazzaville, Gabon and Nigeria are highly dependent on commodity trading with companies based in the UK (second in the world for oil trading) and Switzerland (world leader).⁵ National oil companies' sales in countries such as Azerbaijan and Nigeria constitute about 70% of total government revenues,⁶ largely to oil traders.

¹ Berne Declaration, *Commodities: Switzerland's Most Dangerous Business*, 2012, https://www.ladb.ch/fileadmin/files/documents/Rohstoffe/commodities_book_berne_declaration_lowres.pdf, p.39

² *Financial Times*, "Commodity traders reap \$250 bn harvest", 14 April 2013, <http://www.ft.com/cms/s/0/9f6f541e-a397-11e2-ac00-00144feabdc0.html>

³ RCS Global, "7 reasons why trading companies disclosing payments to governments makes good business sense", June 2015, GOXI, http://goxi.org/profiles/blogs/7-reasons-why-trading-companies-disclosing-payments-to?xg_source=msg_mes_network

⁴ Natural Resource Governance Institute, Swissaid and Berne Declaration, *Big Spenders – Swiss Trading Companies, African Oil and the Risks of Opacity*, 2014, http://www.resourcegovernance.org/sites/default/files/BigSpenders_20141014.pdf

⁵ Berne Declaration, *Commodities: Switzerland's Most Dangerous Business*, op. cit.; Natural Resource Governance Institute, "Swiss disclosure proposal would promote global transparency", September 2012, http://www.resourcegovernance.org/news/press_releases/swiss-disclosure-proposal-would-promote-global-transparency

⁶ Natural Resource Governance Institute, country overviews of Azerbaijan and Nigeria, <http://www.resourcegovernance.org/countries/eurasia/azerbaijan/overview> and <http://www.resourcegovernance.org/countries/africa/nigeria/overview>

Opaque and suspect deals are common. For example, a 2013 contract with the Republic of Congo's state-owned oil refinery reportedly enabled a junior Geneva-based trading company, said to be close to the Congolese President's son, to buy oil at a very favourable price and to immediately resell at a higher price under the same contractual conditions.⁷

The UK Financial Conduct Authority has identified due diligence gaps in commodity trading enabling corruption, "financial crime risk" and "heightened reputational risk" for trading companies.⁸ NGOs have exposed the link between commodities trades and Politically Exposed Persons, as well as the lack of due diligence requirements to know your customer in the sector.⁹

In Switzerland, the world's largest commodity trading hub, a preliminary draft law on extractives transparency aligned with the payments to governments requirements of the EU Accounting and Transparency Directives includes the ability for the Swiss Federal Council to extend the scope of the legislation quickly to include payments to governments for commodity trading, but only as part of an "internationally agreed process".¹⁰ Clearly UK action could have a significant impact on Swiss moves to improve trading transparency in the extractives sector. Taken together, action in the UK and Switzerland would capture over half of the world's commodity trading and significantly improve transparency in the trading of oil, gas and minerals.¹¹

Extension of the EU Directives and UK regulations to cover commodity trading would also be in keeping with the revised EITI Standard: "Where the sale of the state's share of production or other revenues collected in-kind is material, the government, including state owned enterprises, are required to disclose the volumes sold and revenues received. The published data must be disaggregated to levels commensurate with the reporting of other payments and revenue streams."¹² Countries such as Iraq and Nigeria now publish EITI data on commodity transactions, and leading Swiss oil trader Trafigura has committed to make similar disclosures.¹³

For further information:

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⁷ Berne Declaration, "Philia's refined ventures in Brazzaville – how Swiss traders misappropriate Congolese oil rents", 2014, https://www.bernedeclaration.ch/fileadmin/files/documents/Rohstoffe/BD-2015-Investigation-Philiass_refined_ventures.pdf; see also re the 2010 contract between Swiss commodity trader Vitol and Nigeria's state oil company, Berne Declaration, *Commodities: Switzerland's Most Dangerous Business*, 2012, pages 207-8.

⁸ FCA, Commodity Markets Update, February 2014, <http://www.fca.org.uk/static/documents/commodity-market-update-1402.pdf>, page 9.

⁹ Berne Declaration, "A supervisory authority to combat the regulatory lacuna in the commodities sector", 2014,

https://www.bernedeclaration.ch/fileadmin/files/documents/Rohstoffe/14_295_EVB_ROHMA_Paper_A4_EN_FINAL_LowRes.pdf

¹⁰ Swiss Federal Council, "Company law to be modernised", 28 November 2014, <http://www.ejpd.admin.ch/ejpd/en/home/aktuell/news/2014/2014-11-28.html>

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Natural Resource Governance Institute, Berne Declaration, Swissaid and Publish What You Pay, "In pursuit of transparent trading", October 2015,

http://www.resourcegovernance.org/sites/default/files/nrgi_TradingPaper.pdf, pp. 6-7.

¹² EITI Standard, requirement 4.1.c.

¹³ Iraq: <https://eiti.org/files/IEITI%20Final%20Report%202012%20%20English.pdf>; Nigeria:

http://neiti.org.ng/sites/default/files/pdf_uploads/2012-OIL-GAS-REPORT/2012-Oil-Gas-Audit-Report.pdf; EITI, "Trafigura to disclose payments to governments from oil trade", 18 November 2014,

<https://eiti.org/news/trafigura-disclose-payments-governments-oil-trade>